

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3 BENCH SESSION

4 (PUBLIC UTILITY)

5
6 Chicago, Illinois
7 Wednesday, June 22nd, 2011

8
9
10 Met, pursuant to notice, at 10:30 a.m. in
11 N801, Eighth Floor, 160 North LaSalle Street,
12 Chicago, Illinois.

13
14 PRESENT:

15 DOUGLAS P. SCOTT, Chairman

16 LULA M. FORD, Commissioner

17 ERIN M. O'CONNELL-DIAZ, Commissioner

18 SHERMAN J. ELLIOTT, Commissioner

19 JOHN T. COLGAN, Acting Commissioner

20
21
22 SULLIVAN REPORTING COMPANY, by
 Alisa A. Sawka, CSR, RPR
 License No. 084-004588

1 PROCEEDINGS

2 CHAIRMAN SCOTT: Pursuant to the provisions of
3 the Illinois Open Meetings Act, I now convene a
4 regularly scheduled Bench Session of the Illinois
5 Commerce Commission. With us in Springfield are
6 Commissioner Elliott and Acting Commissioner Colgan,
7 with me in Chicago is Commissioner Ford. I'm
8 Chairman Scott. We have a quorum. I believe
9 Commissioner O'Connell-Diaz is available by phone and
10 she said "hi" so I know you're there, right,
11 Commissioner.

12 COMMISSIONER O'CONNELL-DIAZ: Yes, I am. Thank
13 you very much.

14 CHAIRMAN SCOTT: Very good.

15 Per the Commission's rules, we'll have
16 to vote to allow Commissioner O'Connell-Diaz to
17 participate by phone.

18 I move to allow Commissioner
19 O'Connell-Diaz to participate by phone.

20 Is there a second?

21 COMMISSIONER FORD: Second.

22 CHAIRMAN SCOTT: It's been moved and seconded.

1 All in favor say "aye."
2 (Chorus of ayes.)
3 CHAIRMAN SCOTT: Any opposed?
4 (No response.)
5 CHAIRMAN SCOTT: The vote is 4 to nothing and
6 Commissioner O'Connell-Diaz may participate by phone.
7 Before moving into the agenda
8 according to Section 1700.10 of Title 2 of the
9 Administrative Code, this is the time we allow
10 members of the public to address the Commission.
11 Members of the public wishing to address the
12 Commission must notify the Chief Clerk's Office at
13 least 24 hours prior to the Bench Session. According
14 to the Chief Clerk's Office, we have no requests to
15 speak at today's Bench Session.
16 (Whereupon, the Transportation
17 Agenda is contained in a
18 separate transcript.)
19 CHAIRMAN SCOTT: Moving on to the Public
20 Utility Agenda.
21 We will start with approval of minutes
22 from prior Commission meetings. Up first are minutes

1 from our May 24th Regular Open Meeting. I understand
2 amendments have been forwarded.

3 Is there a motion to amend the
4 minutes?

5 ACTING COMMISSIONER COLGAN: So moved.

6 COMMISSIONER FORD: Moved.

7 CHAIRMAN SCOTT: Is there a second?

8 COMMISSIONER FORD: Second.

9 ACTING COMMISSIONER COLGAN: Second.

10 CHAIRMAN SCOTT: It's been moved and seconded.

11 All in favor say "aye."
12 (Chorus of ayes.)

13 CHAIRMAN SCOTT: Any opposed?
14 (No response.)

15 CHAIRMAN SCOTT: The vote is 5 to nothing and
16 the amendments to the May 24th minutes are adopted.

17 Is there now a motion to approve the
18 minutes as amended?

19 ACTING COMMISSIONER COLGAN: So moved.

20 CHAIRMAN SCOTT: Is there a second?

21 COMMISSIONER ELLIOTT: Second.

22 CHAIRMAN SCOTT: It's been moved and seconded.

1 All in favor say "aye."
2 (Chorus of ayes.)
3 CHAIRMAN SCOTT: Any opposed?
4 (No response.)
5 CHAIRMAN SCOTT: The vote 5 to nothing and the
6 May 24th Regular Open Meeting minutes as amended are
7 approved.
8 Next up are minutes from our June 2nd
9 Bench Session. I understand amendments have been
10 forwarded.
11 Is there a motion to amend the
12 minutes?
13 COMMISSIONER FORD: So moved.
14 CHAIRMAN SCOTT: Is there a second?
15 COMMISSIONER ELLIOTT: Second.
16 CHAIRMAN SCOTT: It's been moved and seconded.
17 All in favor say "aye."
18 (Chorus of ayes.)
19 CHAIRMAN SCOTT: Any opposed?
20 (No response.)
21 CHAIRMAN SCOTT: The vote is 5 to nothing and
22 amendments to the June 2nd minutes are adopted.

1 Is there now a motion to approve the
2 minutes as amended?

3 COMMISSIONER ELLIOTT: So moved.

4 CHAIRMAN SCOTT: Is there a second?

5 ACTING COMMISSIONER COLGAN: Second.

6 CHAIRMAN SCOTT: It's been moved and seconded.
7 All in favor say "aye."
8 (Chorus of ayes.)

9 CHAIRMAN SCOTT: Any opposed?
10 (No response.)

11 CHAIRMAN SCOTT: The vote is 5 to nothing and
12 the June 2nd Bench Session minutes as amended are
13 approved.

14 We'll now turn to the Electric portion
15 of today's agenda. Item E-1 concerns initiating an
16 investigation into ComEd's supply rate design and
17 into other related matters as called for in Final
18 Order in Docket No. 10-0467. Staff recommends that
19 the Commission enter an Order initiating this
20 investigation pursuant to Section 9-250 of the Public
21 Utilities Act.

22 Is there any discussion?

1 (No response.)

2 CHAIRMAN SCOTT: Is there a motion to enter the

3 Initiating Order?

4 COMMISSIONER FORD: So moved.

5 COMMISSIONER ELLIOTT: So moved.

6 CHAIRMAN SCOTT: Is there a second?

7 ACTING COMMISSIONER COLGAN: Second.

8 CHAIRMAN SCOTT: It's been moved and seconded.

9 In all favor say "aye."

10 (Chorus of ayes.)

11 CHAIRMAN SCOTT: Any opposed?

12 (No response.)

13 CHAIRMAN SCOTT: The vote is 5 to nothing and

14 the Initiating Order is entered.

15 We will use this 5 to nothing vote for

16 the remainder of the Public Utility Agenda unless

17 otherwise noted. Item E-2 concerns a filing by

18 Mt. Carmel Public Utility Company to revise its

19 standard rate pertaining to the purchase of

20 electricity from cogeneration and small power

21 production facilities consistent with Part 430 of

22 Title 83 of the Administrative Code. Staff

1 recommends that the Commission allow the Company's
2 request by not suspending the filing.

3 Is there any discussion?

4 (No response.)

5 CHAIRMAN SCOTT: Any objections?

6 (No response.)

7 CHAIRMAN SCOTT: Hearing none, the filing will
8 not be suspended.

9 Item E-3 is Docket No. 09-0592. This
10 item will be held for disposition at a future
11 Commission proceeding.

12 Items E-4 and E-5 can be taken
13 together. These items are Petitions by the Illinois
14 Department of Transportation seeking eminent domain
15 authority for acquiring easements on property owned
16 by ComEd in connection with roadway improvements in
17 Lake County and Winnebago County. In each case, ALJ
18 Hilliard recommends that the Commission enter an
19 Order approving the Petition.

20 Is there any discussion?

21 (No response.)

22 CHAIRMAN SCOTT: Any objections?

1 (No response.)

2 CHAIRMAN SCOTT: Hearing none, the Orders are
3 entered.

4 Item E-6 is Docket No. 11-0411. This
5 is a Joint Petition filed by Southeastern Illinois
6 Electric Cooperative and Ameren Illinois for an
7 amendment to a service area agreement altering
8 territorial boundaries. ALJ Tapia recommends that
9 the Commission enter an Order approving the
10 amendment.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, the Order is
16 entered.

17 Items E-7 and E-8 can be taken
18 together. These items are applications by
19 Constellation New Energy and NextEra Energy Services
20 Illinois seeking amendments to their previously used
21 ARES Certificates of Service Authority. In each
22 case, ALJ Wallace recommends that the Commission

1 enter an Order granting the requested amendment.

2 Is there any discussion?

3 (No response.)

4 CHAIRMAN SCOTT: Any objections?

5 (No response.)

6 CHAIRMAN SCOTT: Hearing none, the Orders are
7 entered.

8 Item E-9 is Docket No. 11-0419. This
9 is ConocoPhillips Company's Application for an
10 Amendment to its ARES Certificate of Service
11 Authority. ALJ Tapia recommends that the Commission
12 enter an Order denying the Company's request for an
13 amendment.

14 Is there any discussion?

15 (No response.)

16 CHAIRMAN SCOTT: Any objections?

17 (No response.)

18 CHAIRMAN SCOTT: Hearing none, the Order is
19 entered and the Application for an Amendment is
20 denied.

21 Item E-10 is Docket No. 11-0047. This
22 is Daniel Robbins' Application for Licensure as an

1 Agent, Broker and Consultant under Section 16-115(c)
2 of the Public Utilities Act. ALJ Yoder recommends
3 that the Commission enter an Order denying the
4 requested Certificate of Service Authority.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Any objections?

8 (No response.)

9 CHAIRMAN SCOTT: Hearing none, the Order is
10 entered and the Application is denied.

11 Items E-11 and E-12 can be taken
12 together. These items are Donald Mulder and Power
13 Management's Application for Licensure as an Agent,
14 Broker and Consultant under 16-115(c) of the Public
15 Utilities Act. In each case, ALJ Yoder recommends
16 that the Commission enter an Order granting the
17 requested Certificate.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Orders are

1 entered and the Certificates are granted.

2 Item E-13 is Docket No. 11-0448. This
3 is Microsoft's Application for a Certificate of
4 Service Authority to operate as an alternative retail
5 electric supplier serving its Illinois data center
6 facility. ALJ Wallace recommends that the Commission
7 enter an Order granting the requested Certificate.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Order is
13 entered and the Certificate is granted.

14 Item E-14 is Docket No. 11-0453. This
15 is Santanna Natural Gas's Application for a
16 Certificate of Service Authority to operate as an
17 alternative retail electric supplier. The Company
18 now seeks to withdraw its Application, and ALJ Albers
19 recommends that the Commission grant the Company's
20 request and dismiss this matter without prejudice.

21 Is there any discussion?

22 (No response.)

1 CHAIRMAN SCOTT: Any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Application

4 is withdrawn and the docket is dismissed.

5 Items E-15 and E-16 can be taken

6 together. These items concern customer complaints as

7 to billing and/or charges against ComEd. In each

8 case the parties have apparently settled their

9 differences and brought Joint Motions to Dismiss,

10 which the ALJs recommend we grant.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, these matters

16 are dismissed.

17 Turning now to Natural Gas.

18 Item G-1 is Docket No. 07-0576. This

19 is North Shore Gas's reconciliation case over

20 revenues collected under gas adjustment charges in

21 2007. ALJ Baker recommends that the Commission enter

22 an Order approving the reconciliation.

1 Is there any discussion?

2 (No response.)

3 CHAIRMAN SCOTT: Any objections?

4 (No response.)

5 CHAIRMAN SCOTT: Hearing none, the Order is
6 entered.

7 Items G-2 and G-3 can be taken
8 together. These items are Francis Otto's complaint
9 as to billing and/or charges against Nicor and Zhenya
10 Wang's complaint as to billing and/or charges against
11 North Shore Gas. In each case the parties have
12 apparently settled their differences and brought a
13 Joint Motion to Dismiss which the ALJs recommend that
14 we grant.

15 Is there any discussion?

16 (No response.)

17 CHAIRMAN SCOTT: Any objections?

18 (No response.)

19 CHAIRMAN SCOTT: Hearing none, the Joint
20 Motions to Dismiss are granted.

21 Item G-4 is Docket No. 10-0651. This
22 is John Henry Stevens' complaint as to billing and/or

1 charges against Ameren. ALJ Tapia recommends that
2 the Commission enter an Order dismissing the
3 complaint with prejudice.

4 Is there any discussion?

5 (No response.)

6 CHAIRMAN SCOTT: Any objections?

7 (No response.)

8 CHAIRMAN SCOTT: Hearing none, the matter is
9 dismissed.

10 Item G-5 is Docket No. 11-0252. This
11 is Nicor's Application for a Waiver permitting the
12 installation and use of a nonmetallic composite
13 reinforced thermoplastic pipe manufactured by Smart
14 Pipe for the rehabilitation of steel interstate gas
15 distribution pipeline segments near Ottawa.

16 ALJ Kimbrel recommends that the Commission enter an
17 Interim Order granting the Application for a waiver.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is

1 entered and the Waiver is granted.

2 Moving now to Telecommunications.

3 Item T-1 is Docket No. 11-0345. This
4 is DOCOMO USA's Wireless's Application for a
5 Certificate of Wireless Authority to operate as a
6 reseller of telecommunications services in Illinois.
7 ALJ Riley recommends that the Commission enter an
8 Order granting the Certificate.

9 Is there any discussion?

10 (No response.)

11 CHAIRMAN SCOTT: Any objections?

12 (No response.)

13 CHAIRMAN SCOTT: Hearing none, the Order is
14 entered and the Certificate is granted.

15 Item T-2 is Docket No. 11-0364. This
16 is Access Long Distance's Application for a
17 Certificate of Interexchange Authority to operate as
18 a Reseller of Telecommunications Services throughout
19 Illinois. ALJ Teague recommends that the Commission
20 enter an Order granting the requested Certificate.

21 Is there any discussion?

22 (No response.)

1 CHAIRMAN SCOTT: Any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Order is
4 entered and the Certificate is granted.

5 Item T-3 is Docket No. 11-0320. This
6 item is a Joint Petition by Illinois Bell Telephone
7 Company and First Communications of Ohio seeking
8 approval of an Interconnection Agreement dated
9 March 28th, 2011. ALJ Baker recommends that the
10 Commission enter an Order approving the Agreement.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, the Order is
16 entered and the Interconnection Agreement is
17 approved.

18 Item T-4 is Docket No. 11-0370. This
19 is Conexion Wireless's Application for designation as
20 an Eligible Telecommunications Carrier pursuant to
21 Section 214(e) of the Telecommunications Act of 1996.
22 The Company now wishes to withdraw its Application,

1 and ALJ Riley recommends that the Commission grant
2 the Company's Motion to Withdraw.

3 Is there any discussion?

4 (No response.)

5 CHAIRMAN SCOTT: Any objections?

6 (No response.)

7 CHAIRMAN SCOTT: Hearing none, the motion is
8 granted and the Application is withdrawn.

9 Moving on to Water and Sewer.

10 Item W-1 is Docket No. 06-0655. This
11 item is a Petition by Aqua Illinois pursuant to
12 Section 8-406 of the Public Utilities Act seeking
13 authorization to extend its water and sewer systems
14 and service into an expanded area. ALJ Jones
15 recommends entry of an Order granting the necessary
16 Certificates for the Company's requested service
17 expansion.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is

1 entered.

2 Item W-2 is Docket No. 11-0369. This
3 item is a different petition by Aqua Illinois under
4 8-406 of the Public Utilities Act. This is seeking
5 Temporary and Permanent Certificates authorizing the
6 company to construct, operate and maintain a water
7 distribution system and wastewater collection system
8 in Will County. ALJ Kimbrel recommends that the
9 Commissioner enter an Interim Order granting the
10 Company a Temporary Certificate.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, the Order is
16 entered.

17 Lastly we have a few items of other
18 business for today. First up is our report to the
19 Illinois General Assembly Concerning Spending Limits
20 on Energy Efficiency and Demand Response Measures as
21 required under Section 8-103 of the Public Utilities
22 Act.

1 Is there any discussion?

2 Just quickly as a matter of

3 discussion, I'm going to support the report's

4 conclusion that it isn't an undue constraint. But in

5 terms of some of the rationale to say that the -- in

6 future it may be a constraint due to federal lighting

7 standards that everybody knew or were aware of at the

8 time that this was being done, to me, just seems like

9 a little bit of a thin stretch of the meaning of an

10 undue restraint since people knew about it when it

11 was -- when they were actually contemplating the law

12 that was in effect.

13 But the conclusion I think for the

14 Report that we're supposed to send to the General

15 Assembly is the correct one. And so I'll support

16 sending the Report on.

17 Is there any other discussion?

18 (No response.)

19 CHAIRMAN SCOTT: Is there a motion to have the

20 Report sent to the General Assembly?

21 ACTING COMMISSIONER COLGAN: So moved.

22 CHAIRMAN SCOTT: Is there a second?

1 COMMISSIONER FORD: Second.

2 COMMISSIONER ELLIOTT: Second.

3 CHAIRMAN SCOTT: It's been moved and seconded.

4 All in favor say "aye."

5 (Chorus of ayes.)

6 CHAIRMAN SCOTT: Any opposed?

7 (No response.)

8 CHAIRMAN SCOTT: The vote is 5 to nothing and

9 this Report will be prepared for distribution to the

10 General Assembly.

11 Next up is our Report to the General

12 Assembly concerning spending limits on Renewable

13 Energy Resource Procurement as required under Section

14 1-75 of the IPA Act.

15 Is there any discussion?

16 I know there were -- there was an

17 issue about some amendments to this? Is that

18 something that's going to be offered or...?

19 COMMISSIONER ELLIOTT: To the extent there's

20 support.

21 CHAIRMAN SCOTT: Okay. Is anybody going to

22 make a motion to do that or...?

1 COMMISSIONER ELLIOTT: Well, I would make a
2 motion. I would put forth some edits, but -- and if
3 I can get a second, we'll see where it goes.

4 COMMISSIONER O'CONNELL-DIAZ: From what I'm
5 understanding I -- Commissioner Elliott, you're
6 talking about the late preferenced edits that your
7 office and my office worked on?

8 COMMISSIONER ELLIOTT: Yes, that's correct.

9 COMMISSIONER O'CONNELL-DIAZ: Yeah, I don't
10 think we have the support for it. I think we gave it
11 a good shot.

12 COMMISSIONER ELLIOTT: Yeah.

13 CHAIRMAN SCOTT: Okay.

14 COMMISSIONER O'CONNELL-DIAZ: I think that --
15 yeah, I don't think we have the support for it.
16 However, I think all of those that were around when
17 Illinois only -- when preferenced legislation came
18 through and the harm that it caused our ratepayers
19 was apparent as we went through the procurement
20 cycles for that effort. It is discussed in the
21 Report that Staff has given us. I think we were
22 attempting to make sure that the legislature has a

1 clear picture as to how it really did harm the
2 ratepayers of our state to the tune of significant
3 dollars.

4 So the good thing is we don't -- we
5 are not having that late preference anymore, but I
6 think we wanted to make sure that history didn't
7 repeat itself. But I think we don't have the support
8 for it. So we gave it the good college try.

9 CHAIRMAN SCOTT: Okay. I just wanted to make
10 sure I wasn't foreclosing something that was coming
11 up.

12 So then is there a motion to send the
13 Report on to the General Assembly?

14 ACTING COMMISSIONER COLGAN: So moved.

15 CHAIRMAN SCOTT: Is there a second?

16 COMMISSIONER FORD: Second.

17 CHAIRMAN SCOTT: It's been moved and seconded.

18 In all favor say "aye."

19 (Chorus of ayes.)

20 CHAIRMAN SCOTT: Any opposed.

21 (No response.)

22 CHAIRMAN SCOTT: The vote to 5 to nothing and

1 this Report will be sent over to the General Assembly
2 as well.

3 We have two additional items of other
4 business on today's agenda. Each concerns pending
5 litigation, so we'll go into closed session to
6 discuss those matters.

7 I move to go into closed session.

8 Is there a second?

9 COMMISSIONER FORD: Second.

10 CHAIRMAN SCOTT: It's been moved and seconded.

11 All in favor a say "aye."

12 (Chorus of ayes.)

13 CHAIRMAN SCOTT: Any opposed?

14 (No response.)

15 CHAIRMAN SCOTT: The vote is 5 to nothing to go
16 into closed session.

17 (Whereupon at this point Pages
18 25-55 of the proceeding are
19 contained in a separate closed
20 transcript.)

21

22

1 CONTINUATION OF PROCEEDINGS

2 CHAIRMAN SCOTT: During closed session the
3 Commission discussed filing Comments in FERC Docket
4 No. ER11-3728-000.

5 Is there a motion to file the Comments
6 with FERC?

7 COMMISSIONER FORD: So moved.

8 COMMISSIONER ELLIOTT: So moved.

9 CHAIRMAN SCOTT: Is there a second?

10 COMMISSIONER O'CONNELL-DIAZ: Second.

11 CHAIRMAN SCOTT: It's been moved and seconded.

12 In all favor say "aye."

13 (Chorus of ayes.)

14 CHAIRMAN SCOTT: Any opposed?

15 (No response.)

16 CHAIRMAN SCOTT: The vote is 5 to nothing and
17 Comments will be filed with FERC.

18 Judge Wallace, are there any other
19 matters to come before the Commission today?

20 JUDGE WALLACE: No, that's all, sir.

21 CHAIRMAN SCOTT: Thank you very much, sir.

22 Hearing none, this meeting stands

